

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 15,638
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Appeal of)	
)	

INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare terminating her ANFC benefits due to the receipt of lump sum income. The issue is whether any of the income should have been excluded because it was used to pay expenses beyond the control of the recipient.

FINDINGS OF FACT

1. The petitioner has been an ANFC recipient on behalf of her young son for several years. In April of 1998, the petitioner called the Department to say that she might be getting a workers' compensation award in the near future. At that time, she was advised that the lump sum would be counted against the ANFC benefits to be paid out to her over the coming months unless the amounts were excludible.

2. On April 22, 1998, the petitioner received \$9,760.79 which was reported to the Department. On May 20, 1998, the petitioner sent a list of items which she had bought with the money and asked that the total be excluded from counting the income. The Department reviewed the list and determined that work she had done on her car and some back bills could be counted for a total exclusion of

\$748.75.

3. On August 20, 1998, the Department mailed the petitioner a notice that her ANFC grant of \$258 per month would be closed effective August 31, 1998 because she had \$9012.54 in countable ANFC income which would continue to make her ineligible until January of 1999, at which time she would be attributed \$505.54 in income for that month. She was also advised that she had been overpaid from April 23, 1998 through August of 1998 and would receive a further overpayment notice. She was given information about how the period of ineligibility could be shortened if she had certain enumerated expenses or changes in her household or income situation.

4. The petitioner appealed that decision. At the hearing she brought in a list of expenditures made from the lump sum which she says she garnered from going through her checkbook. She testified at length regarding those expenditures which included the repayment of loans made by both her parents and the bank, repayment of her husband's old business loans, purchase of a hot tub for hydrotherapy, payment for an engagement ring, electrical work done on the house, car repair, repair of and gravel for the driveway, school clothes, filling up the oil tank, landscaping services, fire extinguishers, house paint, a compressor and tools for her husband's business, septic tank clean-up and car insurance.

5. Payment for some of these items (the car repair and fire extinguishers) had been previously excluded by the Department. As the petitioner had come to the hearing without copies of the cancelled checks, a bank statement or any other evidence of the expenditures, the record was kept open for two weeks in order for her to supply some evidence of these expenditures. When she supplied such evidence the Department was to review it and make a supplemental decision regarding what payments were and were not countable. If the petitioner was still dissatisfied, the evidence was to be reviewed by the hearing officer.

6. After hearing nothing for one month, the hearing officer wrote to the petitioner and the Department on October 13, 1998, setting a new deadline for submission of the evidence on October 23. On October 27, 1998, the Department notified the hearing officer that the petitioner had failed to provide any additional information. No new information had been supplied as of the date of this recommendation.

ORDER

The decision of the Department disqualifying the petitioner until January of 1999 due to the receipt of lump sum income is affirmed.

REASONS

The Department's regulations require that lump sum payments be counted as income for ANFC purposes unless they are excluded under an enumerated exception. W.A.M. 2250.1.

The regulation further requires that:

Lump sum payments which are not excluded should be added together with all other non-ANFC income received by the assistance group during the month. When the total less applicable disregards exceeds the standard of need for that family, the family will be ineligible for ANFC for the number of full months derived by dividing this total income by the need standard applicable to the family. Any remaining income will be applied to the first month of eligibility after the disqualification period.

Workers' Compensation benefits are included under the ANFC regulations as generally countable income. See 2250 et seq. The Department followed the procedure set out in the regulation by including the lump-sum benefit as income, evaluating the claim for exclusions, and determining the petitioner's period of disqualification based upon the remainder.

The only issue in this matter is whether the Department came to the proper conclusion with regard to the amount of the lump sum to exclude based upon expenditures the petitioner presented to it. The petitioner's testimony suggested that she might have had further expenditures which were eligible for exclusion. She was given an opportunity to show some proof of the amounts and reasons for those expenditures. At the time of this writing, two months have passed since the petitioner originally promised to provide such proof and a month has elapsed since she was warned with

regard to her failure. Without such proof (which should not have been difficult to obtain), it is impossible for either the Department or the hearing officer to verify the alleged expenditures.

In the absence of sufficient verification, the hearing officer must conclude that the Department's initial determination was correct. The petitioner is advised that she can bring in verifications of her claimed expenditures to the Department anytime before the expiration of her disqualification period and ask for a recalculation.

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